

United States Senate

WASHINGTON, DC 20510

April 14, 2014

The Honorable Chuck Hagel
Secretary of Defense
U.S. Department of Defense
The Pentagon 20301-1155

Dear Secretary Hagel:

We urge the Department of Defense to authorize the enlistment of Deferred Action for Childhood Arrivals (DACA) recipients into the U.S. Armed Forces.

We understand that the Defense Department is currently conducting a review of whether to recruit from the DACA population. Additionally, the bipartisan Department of Defense Appropriations Bill for Fiscal Year 2014 (Senate Report 113-85) required the Secretary of Defense to provide an unclassified report to the congressional defense committees on the feasibility and impact on military recruitment and readiness of authorizing the enlistment of DACA recipients.

As you know, under the DACA program, a select group of young immigrants can receive deferred action and eligibility for employment. To be eligible for DACA, an individual must have entered the United States as a child; graduated from secondary school, obtained a general equivalency degree, or be currently enrolled in school; and not have a serious criminal record.

Under 10 U.S.C. §504, the Defense Department can authorize the enlistment of non-citizens when the enlistment is “vital to the national interest.” There is no statutory definition or legislative history on the meaning of “vital to the national interest”; rather it is entirely in the discretion of the Defense Department to make this determination.

We believe that the Defense Department should authorize the enlistment of DACA recipients whose enlistment is determined to be vital to the national interest because it would allow the Armed Forces to access a well-qualified, educated, diverse, homegrown talent pool which has been thoroughly vetted by the U.S. Department of Homeland Security. As the bipartisan Senate Appropriations Committee report stated:

“The Committee is concerned that immigrants who have received Deferred Action for Childhood Arrivals [DACA] are not authorized to enlist in the Armed Forces, which has a negative impact on military recruitment and readiness. ...DACA recipients are, by definition, educated and integrated into American society, and many have shown an interest in and aptitude for military service through participation in Junior Reserve Officers’ Training Corps [JROTC].”

As you know, non-citizens have an outstanding tradition of service in the Armed Forces. The Center for Naval Analyses has concluded, “non-citizens have high rates of success while

serving – they are far more likely, for example, to fulfill their enlistment obligations than their U.S. born counterparts. ... [non-citizens] are more diverse than citizen recruits – not just racially and ethnically, but also linguistically and culturally.”

The requirements to qualify for DACA are almost identical to those for the DREAM Act, bipartisan legislation that has passed the U.S. Senate and the U.S. House of Representatives at different points. The Defense Department has supported the DREAM Act under Republican and Democratic Administrations. In 2010, then-Secretary of Defense Robert Gates said the DREAM Act “will result in improved recruitment results and attendant gains in unit manning and military performance.”

If the Defense Department authorizes the enlistment of DACA recipients, each Service would still control the terms of enlistment and decide whether to enlist a particular individual based on the applicant’s merits. The statutory and contractual obligations of all military enlistees would not change. In fact, if a DACA enlistee violated the terms of his enlistment contract or received a less than honorable discharge, he would lose deferred action and be subject to deportation.

While the Armed Forces are reducing in size, the Services will still need to enlist tens of thousands of well-qualified recruits every year at a time when many fewer Americans meet enlistment standards and are interested in enlisting. As Deputy Assistant Secretary of Defense for Military Personnel Policy Virginia Penrod testified to the House Armed Services Committee on January 16, 2014:

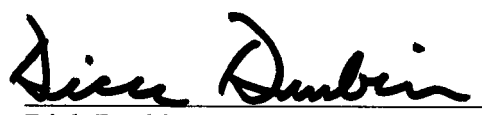
“Today nearly 75 percent of our youth are not qualified for military service with medical conditions and weight accounting for most of the disqualifications. Compounding eligibility concerns is the lack of youth interested in military service. ... As the economy improves, we expect youth interest in military service as an employment option to decline. ... In order to expand the recruit market, the Department of Defense supports the enlistment of non-citizens to the extent permitted by law, subject to these individuals being otherwise qualified for service in the U.S. Armed Forces.”

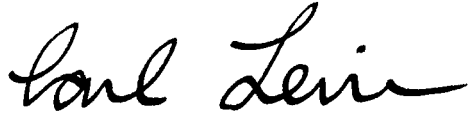
Again, we urge you to authorize the enlistment of DACA recipients. We look forward to the results of your review.

Thank you for your time and consideration.

Sincerely,


Harry Reid
Majority Leader

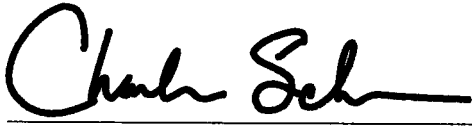

Dick Durbin
Assistant Majority Leader



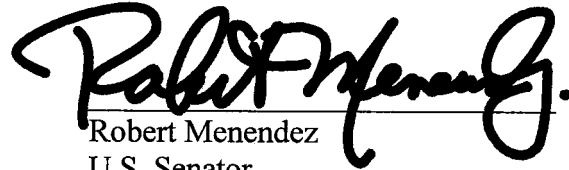
Carl Levin
Chairman, Committee on Armed Services



Patrick J. Leahy
Chairman, Committee on the Judiciary



Charles E. Schumer
Chairman, Subcommittee on Immigration



Robert Menendez
U.S. Senator

cc: President Barack Obama
Secretary of Homeland Security Jeh Johnson
Acting Under Secretary of Defense for Personnel and Readiness Jessica Wright